



October 22, 2013

TO: Temporary Co-chairpersons Bolkcom and Heaton, Members of the Mental Health and Disability Services Redesign Fiscal Viability Study Committee
FROM: John Pollak, Legal Services Division, Legislative Services Agency
RE: Adult Mental Health and Disability Services Redesign — Historical Information

A. Selected MH/DS Problems Addressed by 1995 Iowa Acts, ch 206 (SF 69) and Related Legislation in the 1990s:

1. Limited increase in county funding for MH/DS by segregating property tax levies and expenditures for the services into a separate fund capped at a specific dollar amount based on expenditures in the mid-1990s. Reduced property taxes for the services from approximately \$215 million by replacing with approximately \$90 million in state dollars. Removed supplemental levy authority.
2. Increased county professional capacity by instituting the central point of coordination (CPC) system and requiring services plans to be subject to approval by DHS.
3. Began increasing use of Medicaid funding in the system and the use of managed care contracting for state expenditures.

B. Problems Identified in 2009 Included:¹

1. Counties have the legal responsibility to provide services; levy authority is capped at a specific dollar amount based on the amount levied in 1996 (other levy limitations restrict the rate rather than a dollar amount).
2. The dollar amount limitation prohibits counties from any increase in local revenue for these services beyond the 1996 level, even though property values have substantially increased since then.
3. The state is responsible for funding of all system growth above the 1996 level, but state revenue shortages typically have precluded significant increases.
4. The methodology for distributing state growth funding has become increasingly complex in order to target counties with the greatest need.
5. State funding is inadequate — growing numbers of counties have negative fund balances (at the close of FY 2008, 24 counties had negative fund balances, and another 28 counties had fund balances of less than 5 percent).

¹ John Pollak, Background Information for Iowa General Assembly Adult Mental Health and Developmental Disabilities (MH/DD) Stakeholder Task Force, Legislative Services Agency, (Aug. 18, 2009), available at <https://www.legis.iowa.gov/DOCS/LSA/IntComHand/2010/IHJCP001.PDF> (last accessed Oct. 10, 2013).

6. More counties are implementing waiting lists for services. As of July 2009, six counties had implemented waiting lists.
7. If funding remains static, the county obligation to pay the nonfederal share of Medicaid for adult MH/MR/DD services will eventually preclude county payment for any other adult MH/MR/DD services.
8. The latest revenue projections for FY 2009 and 2010 are for declines in overall state revenues.
9. Due to across-the-board budget cuts in FY 2009, the state funding distributed to counties for services was subject to an \$8.2 million reduction. The property tax replacement portion was restored by the General Assembly.
10. For the 27-month period beginning October 1, 2008, the federal funding available to counties for adult MH/MR/DD services through the Medicaid program was subject to increase under the federal American Recovery and Reinvestment Act of 2009. It is estimated the additional federal funding for counties will be \$75 million from FY 2009 to FY 2011.
11. Risk pool funding has historically been insufficient to fulfill requests (in Fall 2008, 15 counties submitted \$5.3 million in requests for the \$1 million in funding available for FY 2009).
12. The 1996 reforms did not address inequities among the counties; significant differences in funding, levy rates, and services still exist.

C. Recent Major Legislative-related Studies:

1. MH/MR/DD/BI Commission — Redesign Report submitted in January 2004 and updated by the commission in 2006. Selected recommendations:
 - a. Consider options for rebasing county property tax funding.
 - b. Provide for standardized functional assessments of persons with MH/MR/DD/BI needs and implement case rates.
 - c. Increase overall funding.
2. MH/MR/DD/BI Services Funding Study Committee — met in 2006-2007. Continued review of and expanded on options contained in the commission's redesign report.²
3. Adult Mental Health and Developmental Disabilities (MH/DD) Stakeholder Task Force - met in 2009. Legislative staff coordinated a workgroup of stakeholders to develop short-term and long-term options for reforming the adult MH/DD services system and funding. The workgroup submitted a report to legislators.³ The long-term options submitted included shifting the responsibility for the nonfederal share of Medicaid from the counties to the state.
4. Mental Health and Disability Services Study Committee — met in 2011 following enactment of 2011 Iowa Acts, chapter 121 (SF 525). SF 525 directed DHS to lead a

² Final Report of Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury (MH/MR/DD/BI) Services Funding Study Committee, Iowa General Assembly (Jan. 2007), available at <https://www.legis.iowa.gov/DOCS/LSA/IntReport/2007/IPJCP000.PDF> (last accessed Oct. 10, 2013).

³ Report of Adult Mental Health and Developmental Disabilities Service System Workgroup to Adult MH/DD Stakeholder Task Force, Iowa General Assembly (Jan. 2010), available at <https://www.legis.iowa.gov/DOCS/LSA/IntReport/2010/IPJCP000.PDF> (last accessed Oct. 11, 2013).

redesign effort involving seven workgroups. Most met every other week from mid-August to the end of October. The legislation contained several important policies to guide the redesign: establish regional entities to replace the county administrative structure, expand state funding to directly pay the full nonfederal share of Medicaid funded services, use residency in place of legal settlement as a basis for determining financial responsibility, and establish a set of core services.

The study committee maintained responsibility for funding issues and the following workgroups were established to address other topics:

- a. Adult Mental Health (MH) System Redesign Workgroup
- b. Best Practices and Program for Persons with Brain Injury (BI) Workgroup
- c. Adult Intellectual and Developmental Disability (ID/DD) System Redesign Workgroup
- d. Children's Disability Services Workgroup (Children)
- e. Regionalization Workgroup (Regional)
- f. Judicial Branch and DHS Workgroup (Judicial-DHS)
- g. Psychiatric Medical Institutions for Children (PMIC) Transition Workgroup

2012 Legislation. The DHS consultants retained to guide the workgroup process submitted a 169-page interim report with background information and various recommendations made by the workgroups.⁴ DHS analyzed this report and submitted its own 22-page final report which accepted the majority of the interim report recommendations, identified areas of emphasis, and highlighted areas of difference.⁵ The study committee determined that the majority of the recommendations submitted should be drafted in bill form for further consideration by the study committee and interested members of the General Assembly and stakeholders. The following bills were prepared and were summarized in the study committee's final report.⁶

i. LSB 5146IC. This 70-page bill draft changed the term "mental retardation" to the term "intellectual disability" throughout the Iowa Code. This bill was enacted as 2012 Iowa Acts, ch 1019 (SF 2247).

ii. LSB 5488IC. This 91-page bill draft addressed the MH/DS redesign proposals recommended by the workgroups and DHS, as modified by the study committee. Initially, study committee members from both chambers met and discussed the bill. However, as the session progressed, Senate and House of Representatives members worked separately on the legislation. Ultimately, most provisions were enacted in 2012 Iowa Acts, ch 1120 (SF 2315). Appropriations-related provisions were enacted in 2012 Iowa Acts, ch 1133 (SF 2336). The attached

⁴ Iowa Mental Health and Disability Services System Redesign Interim Report to the Department of Human Services (corrected), Technical Assistance Collaborative, Inc. (Oct. 31, 2011), available at <https://www.legis.iowa.gov/DOCS/LSA/IntReport/2012/IPJCP001.PDF> (last accessed Oct. 10, 2013).

⁵ Iowa Mental Health and Disability Services System Redesign Final Report, Iowa Department of Human Services (Dec. 9, 2011), available at <https://www.legis.iowa.gov/DOCS/LSA/IntReport/2012/IPJCP002.PDF> (last accessed Oct. 10, 2013).

⁶ Mental Health and Disability Services Study Committee Final Report, Iowa General Assembly (Feb. 2012), available at <https://www.legis.iowa.gov/DOCS/LSA/IntReport/2012/IPJCP005.PDF> (last accessed Oct. 10, 2013).

timeline prepared by DHS provides a succinct summary of significant provisions and associated implementation dates.⁷

iii. LSB 5422XL. This 10-page bill draft addressed the recommendations made by the Judicial Branch/Department of Human Services Workgroup, including law enforcement training, residential care facility admissions, expanding access to emergency detention and hospitalization procedures, eliminating the definition of “qualified mental health professional” in Iowa Code chapter 229 (hospitalization of persons with mental illness), implementation of a preapplication screening assessment program to be available prior to an application for an involuntary commitment proceeding, study of an independent statewide patient advocate program, and study regarding the possible establishment of a comprehensive statewide jail diversion program, including the establishment of mental health courts, for nonviolent criminal offenders who suffer from mental illness. This bill was enacted as 2012 Iowa Acts, ch 1079 (SF 2312).

5. The Mental Health and Disability Services Redesign Fiscal Viability Study Committee was created by the Legislative Council for the 2012 Interim and continued for the 2013 Interim. The recommendations made by the committee for the 2013 Legislative Session included:⁸
 - a. That up to \$20 million be designated for the Transition Fund to be used to assist counties in maintaining services for FY 2012-2013.
 - b. That, by February 1, 2013, DHS provide criteria and options for counties to pay their Medicaid and State Resource Center billings incurred prior to July 1, 2012, during FY 2013-2014 and beyond.
 - c. That, by February 1, 2013, ISAC recommend options for counties to maintain an appropriate ending balance for their MH/DS funds.
 - d. That LSA prepare draft legislation for the 2013 Legislative Session to implement the recommendations made to the study committee by the following 2012 redesign workgroups led by DHS:
 - i. Children’s Disability Services Workgroup.
 - ii. Judicial Branch and DHS Workgroup.
 - iii. Outcomes and Performance Measures Committee.
 - iv. Service System Data and Statistical Measure Workgroup.
 - v. Transition Committee.

D. Key Issues in Study Committee Charge:

1. When created for 2012, the study committee was charged to analyze the fiscal viability of the mental health and disability services redesign provisions enacted in the 2012 Legislative Session.
2. For 2013 the study committee was charged to propose a permanent approach for state, county, and regional financing of the redesign and to do all of the following:

⁷ Timeline for Mental Health & Disability Services Redesign, Iowa Department of Human Services (May 30, 2012), available at <https://www.legis.iowa.gov/DOCS/LSA/IntComHand/2013/IHJCP027.PDF> (last accessed Oct. 10, 2013).

⁸ Mental Health and Disability Services Redesign Fiscal Viability Study Committee Draft Final Report, Iowa General Assembly (Aug. 2013), available at <https://www.legis.iowa.gov/DOCS/LSA/IntComMin/2014/IMJCP001.PDF> (last accessed Oct. 14, 2013).

- a. Identify potential cost savings and service improvements that may be realized by working with community-based corrections services and other programs and services that address common needs or populations.
- b. Study the provisions for implementing mental health and disability service Medicaid offset amounts and repayments by counties relating to the Iowa Health and Wellness Plan. The study committee shall consider the potential effects of the repayment provisions on the ability of the mental health and disability service regions to adequately fund the initial core services and additional core services and to make recommendations to address funding insufficiencies.

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Mental Health and Disability Services Redesign 2011

Timeline for Mental Health & Disability Services Redesign

Source: SF 2315 & Department of Human Services

Date Created: May 30, 2012

FISCAL YEAR 2013

- State will fund Medicaid services previously funded by counties.
- Disputed billings prior to July 1, 2011 are forgiven.
- Billing dispute for bills after July 1, 2011 – July 30, 2012 are not written off. Counties and state will coordinate payments.
- One-time Mental Health and Disability Services Redesign Transition Fund created. DHS to create criteria based on need. Emergency rules will be created. The fund begins on July 1, 2012 and ends on June 30, 2013.
- DHS to provide 28E guidance and regional governance guidance to regions beginning in June 2012-June 30, 2013.
- Crisis stabilization pilot begins. Report on outcomes and recommendations due to governor on or before December 14, 2012. DHS, DIA and IDPH to work together on rules.
- Community-based and facility-based sub-acute program established with service definitions, rules and reimbursement methodology created.
- Workgroups Begin:
 - Transition Committee begins meeting upon Legislative appointments– Report due December 14, 2012.
 - Data Workgroup has begun meeting – Report due December 14, 2012.
 - Workforce Workgroup, which is overseen by DPH, begins meeting no later than August 2012 depending on workgroup members' availability. Reports due December 14, 2012; December 16, 2013.
 - Outcomes and Performance Measures Committee begins meeting no later than August 2012 depending on workgroup members' availability – Reports due December 14, 2012; December 16, 2013.
 - Children's Disability Workgroup begins meeting no later than August 2012 depending on workgroup members' availability – Report due on or before December 10, 2012.
 - Judicial Workgroup begins meeting no later than August 2012 depending on workgroup members' availability – Report due on or before December 14, 2012.
- Study Committee to review levy equalization begins meeting upon legislative appointment.

MHDS Redesign Timeline

- DHS to provide regions technical assistance (TA) to regions who have filed a letter of intent of formation.
- Interim Legislative Study committee to review 2013 legislative enactments and make recommendations for the 2014 legislative session.
- During FY2013 standardized functional assessments for ID, MI and BI are implemented.
- Regulatory requirements approved to streamline processes for regions and service providers: DHS, DIA and DPH to work in tandem.
- CMHC standards updated to match 230A.
- MHI co-occurring service requirements take effect on July 1, 2013.
- Sub-acute community and facility based services rules are approved. DHS and DIA to work in tandem.
- DHS issues RFP – accreditation standards for providers and reimbursement methodology.
- RCF, sub-acute and crisis stabilization regulatory requirements due: DHS, DIA, IDPH to work together.
- DHS to work with Magellan to determine reimbursement for sub-acute and crisis stabilization.
- Transition Fund:
 - DHS establishes criteria for application for Transition Fund.
 - Application from counties to apply for Transition Funds is due on October 15, 2012.
 - Department will submit recommendations to governor and general assembly of the amount of transition funding needed to meet the need for assistance to counties by December 1, 2012.
- Feasibility study and cost analysis of providing sub-acute services at MHI or IA Veteran's home due on or before December 1, 2012.
- DHS recommendations to governor and general assembly on third party coverage sources and cost estimates and financing options to adding individuals with a DD diagnosis and BI diagnosis due on or before December 14, 2012.

FISCAL YEAR 2014

- \$47.28 per-capita replaces current maximum levy dollar amount on July 2, 2013 if appropriated.
- Legal settlement is repealed and residency is established July 1, 2013.
- Eligibility rules take effect.
- Core Services begin.
- MHD regional services fund takes effect.
- Standards and methodology for calculating administration costs and load will be reviewed with the Legislative Services Agency.
- MHDS Regional Services Fund begins July 1, 2013.
- County of residence disputes and service appeals processes take effect on July 1, 2013.
- Expedited reviews of service authorization rules begin July 1, 2013.

FISCAL YEAR 2015

- Regions enter into performance-based contracts with DHS on or before July 1, 2014.
- Regions begin operating on or before July 1, 2014.

REGIONAL FORMATION TIMELINE

- If applicable, counties to submit intent to join a region June 2012 through April 1, 2013.
- Counties to indicate intent to apply for exemption on or before May 1, 2013. Emergency rules to be created.
- The Department shall work with any county that has not agreed to be part of a region and with the regions forming around the county to resolve issues preventing the county from joining a region, April 2, 2013-July 1, 2013.
- Counties to submit exemption application on or before June 30, 2013.
- All counties have joined region by December 31, 2013.
- Regional service system management plans due April 1, 2014 and on April 1 each year thereafter.
- Regions in compliance with implementation criteria by June 30, 2014.
- Regions begin operating on July 1, 2014.